IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3400 OF 2006

Pundlik Bapu Bhoir .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.Anilkumar Patil for applicant

Mr.R.Y.Mirza, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 20th September 2006

P.C.

. Applicant is apprehending arrest in connection with C.R.No.I-318 of 2006 registered with Ambarnath Police Station alleging offences

punishable under section 409 of I.P.C.

2. With the assistance of Mr.Patil and Mr.Mirza, A.P.P. I have perused the statement of complainant Vaishali Patankar. She has specifically stated in her statement that the bank account with the Thane Dist.Central Coop.Bank Kalyan branch being Bank Account No.431 is operated by her. She is working as Taluka Master. She is the one who receives amounts towards salaries of the staff by cheque. Thereafter, the disbursement takes place in the manner stated by her.

3. She does not dispute that a sum of Rs.44,603/- was credited in the account on 17th July 2006. Thereafter, she was responsible for deposit of the amount which is undisbursed. Even the event of 18th July 2006 as narrated by her demonstrates that she has withdrawn the amount by cheque from the account, details of which are

disclosed above. Thereafter, she has taken the said amount along with her associate. She was one who was in possession of the challans. The applicant is working as an Accounts Officer and all that is stated is that these challans were shown to the applicant and he was told to deposit the same in the current account which is in the name of Gat Vikas Adhikari. Thereafter, it is alleged that the applicant told her that on account of delay, she should bring cash amount. The cash amount also was handed over to one Mr.Pawar.

4. An explanation of the applicant was sought for departmentally. The applicant has given his version and has pointed out that the entire disbursement and more particularly towards the salary has to be done by cheque drawn in the name of concerned employee, there is no question of any cash transaction between Panchayat Samiti and Taluka Master or vice-a-versa. In such

circumstances, prima facie, there is substance in the applicant's contention that there is neither any endorsement nor any misappropriaion or conversion. Prima facie, there is substance in the contention of Mr.Patil that the allegations against applicant are false and lacking in bonafides. The pre-requisites for pre-arrest bail are thus made out.

5. I need not go into any wider question at this stage when the investigations are pending. All that is placed on record before me is version of complainant lady who is herself in charge of all operations. As far as the applicant's role is concerned, it is, as Accounts Officer of the local authority i.e. Z.P. Once he is not in charge of depositing so also disbursing the amounts towards salaries of the staff and his version is already appearing on record in the departmental communicartion, it would not be necessary to detain the applicant in custody.

More so, when all documents are in possession of the concerned investigating machinery. In such circumstance, applicant deserves to the enlarged on bail in the event of his arrest. Hence, following order:-

i) In the event of the arrest of the applicant in connection with C.R.No.I-318 of 2006 registered with Ambarnath Police Station, the applicant shall be enlarged on bail in the sum of Rs.10,000/- with one or two sureties in the like amount.

ii) The bail is granted subject to condition that the applicant will attend on Friday 22nd September 2006 Ambarnath police station and thereafter as and when summoned.

iii) Bail is granted subject to condition that the applicant shall not,

directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the police officer/ investigating agency. The applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial

v) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

6. While passing this order, it should not be construed that any observation is made with regard to the merits of the case so also the role of the applicant finally, since the investigations are in progress and all concerned, including the applicant would have to be interrogated. It is clarified that any observations in this order shall not prejudice the prosecution in so doing and conducting further investigations in accordance with law.

(S.C.DHARMADHIKARI, J)